

TTAB

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01-24-2003

U.S. Patent & TMQfc/TM Mail Rcpt Dt. #7

Attorney for Petitioner

IN THE UNITED STATES PATENT AND TRADEMARK OFFICE

BEFORE THE TRADEMARK TRIAL AND APPEAL BOARD

In the Matter of Trademark Registration No. 534,259,)
Registered 12-05-50, For the Mark CRAFTSMAN,)
in International Class 008; Trademark Registration)
No. 1,391,401, Registered 04-29-86, For the Mark)
CRAFTSMAN, in International Class 008;)
Trademark Registration No. 1,927,755, Registered)
10-17-95, For the Mark CRAFTSMAN, in)
International Class 025; Trademark Registration No.) Restriction No. _____
2,087,020, Registered 08-12-97, For the Mark)
CRAFTSMAN, in International Class 008;)
)
John L. Minasian,)
Petitioner,)
v.)
)
Sears, Roebuck and Co.)
Registrant)

01/30/2003 TSMITH 00000027 534259

01 FC:6401

1200.00 OP

PETITION FOR RESTRICTION

Box TTAB-Fee
Commissioner for Trademarks
2900 Crystal Drive
Arlington, VA 22202-3513

Madam Commissioner:

Petitioner, John L. Minasian, a citizen of the United States of America,

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residing in Studio City, California, and having his principal place of business at 4029 Goodland Avenue, Studio City, Los Angeles County, California 91604, believes that he is being damaged by the aforesaid registrations and hereby petitions to have them restricted as set forth below.

To the best of petitioner's knowledge, the name and address of the current owner of said registrations is Sears, Roebuck and Co., 3333 Beverly Road, Hoffman Estates, Illinois 60179.

The grounds for restriction are as follows:

1. Petitioner has a bona fide intention to use the mark CRAFTSWOMAN in commerce as a trademark on, and in connection with, Hand Tools, Namely, Chisels, Clamps, Hand Drills and Drill Bits, Files and Rasps, Hammers, Planes, Pliers, Screw Drivers, Shovels, Socket Sets, Trowels, Wrenches (Int. Class 008); Electrical and Scientific Apparatus, Namely, Electric Soldering Irons, Multi-Meters, Rulers and Tape Measures (Int. Class 009); Work Clothing for Women, Namely, Caps, Coveralls, Foul Weather Gear, Gloves, Jackets, Shirts, Shoes, Trousers (Int. Class 025)

2. On 4 June 2001, Petitioner filed an application (SN 76/266,055) in the United States Patent and Trademark Office requesting that said mark be registered for all of the aforesaid goods in the Principal Register established by the Act of 5 July 1946 (U.S.C. §1051 et seq.), as amended. Petitioner's counsel has received first and final actions from the Patent and Trademark Office dated 1 August 2001 and 5 April 2002, respectively, both of them refusing registration of Petitioner's trademark because of the likelihood of confusion with Registrant's trademark CRAFTSMAN shown in U.S. Registrations Nos. 534,259, 576,891, 1,391,401, 1,923,340, 1,927,755, and 2,087,020.

3. Petitioner has appealed to the Trademark Trial and Appeal Board from

the portion of the decision of the Trademark Examining Attorney refusing registration of CRAFTSWOMAN in International Classes 008 and 025. In the interest of narrowing and focusing on the issues raised by the appeal, Petitioner has abandoned his application, insofar as it seeks to register CRAFTSWOMAN for goods in International Class 009, and has amended the application to delete all references to goods in International Class 009. The amendment has been accepted and entered as definite and within the scope of the previous recital of goods by the Patent and Trademark Office Examining Attorney. The goods for which registration is now sought are as follows:

Women's Hand Tools, Namely, Chisels, Clamps, Hand Drills and Drill Bits, Files and Rasps, Hammers, Hand Saws, Planes, Pliers, Screw Drivers, Shovels, Socket Sets, Trowels, and Wrenches, all Specifically Designed and Constructed For Women, and Marketed Exclusively To Women, in International Class 008; and Women's Work Clothing, Namely, Caps, Coveralls, Foul Weather Gear, Gloves, Jackets, Shirts, Shoes, and Trousers, all Specifically Designed and Made For Women, and Marketed Exclusively To Women, in International Class 025.

4. By virtue of the narrowing of the recital of goods, the only portions of the references cited in support of the refusal that are germane to this appeal are those pertaining to Registrant's goods in International Classes 008 and 025. In Registration No. 534,259, the pertinent goods are described by the Examining Attorney as "chisels, files, hand drills, hammers, screwdrivers, hand wrenches, shovels, in International Class 008;" in Registration No. 1,391,401, the goods are described as "shaping files, socket wrenches, ratchet wrenches, combination wrenches, ignition wrenches, in International Class 008;" in Registration No. 1,927,755, the goods are "clothing, namely suspenders, belts, hats, gloves, in International Class 025;" and in Registration No. 2,087,020, they are lug wrenches and spring clamps, in International Class 008."

5. Upon information and belief, Registrant uses the CRAFTSMAN mark

in connection with all of the aforementioned goods, but such use always has been, and continues to be subject to certain substantive restrictions, to-wit:

a. CRAFTSMAN brand products are sold exclusively in Sears, Roebuck and Co. stores and Sears, Roebuck and Co. affiliate stores, through Sears, Roebuck and Co. catalog and mail order services, and by means of the Sears, Roebuck and Co. Internet website.

b. CRAFTSMAN brand products do not travel in and are not available through channels of commerce other than Sears, Roebuck and Co. stores, Sears, Roebuck and Co. affiliate stores, Sears, Roebuck and Co. catalog and mail order services, and the Sears, Roebuck and Co. Internet website.

c. All advertisements of CRAFTSMAN brand goods contain the SEARS or SEARS ROEBUCK AND CO. trademark in close proximity to the CRAFTSMAN trademark.

6. The aforementioned restrictions are well-established in the marketplace and are generally known to the public. These restrictions characterize the public image of SEARS and SEARS ROEBUCK AND CO. and auger against the likelihood of confusion arising out of Petitioner's use of his distinctive CRAFTSWOMAN trademark for women's hand tools specifically designed and constructed for women, and marketed exclusively to women, and women's work clothing, specifically designed and made for women, and marketed exclusively to women.

7. Unless the pertinent portions of the cited registrations are amended and restricted to incorporate the terms and conditions under which Registrant is actually using the CRAFTSMAN mark, the Patent and Trademark Office will not register Petitioner's mark, to Petitioner's great and irreparable damage. Upon information and belief, if the

amendment and restriction sought are granted, the basis for refusing registration effectively will no longer exist, and registration will be granted.

WHEREFORE, Petitioner earnestly requests that U.S. Trademark Registrations Nos. 534,259, 1,391,401, 1,927,755, and 2,087,020, insofar as they relate to goods in International Classes 008 and 025, be amended to contain the following restrictions with respect to the goods in Classes 008 and 025 recited therein:

In Registration No. 534,259, the chisels, files, hand drills, hammers, screwdrivers, hand wrenches, shovels, in International Class 008; in Registration No. 1,391,401, the shaping files, socket wrenches, ratchet wrenches, combination wrenches, ignition wrenches, in International Class 008; in Registration No. 1,927,755, the clothing, namely suspenders, belts, hats, gloves, in International Class 025; and in Registration No. 2,087,020, the lug wrenches and spring clamps, in International Class 008 are sold exclusively in Sears, Roebuck and Co. stores and Sears, Roebuck and Co. affiliate stores, through Sears, Roebuck and Co. catalog and Sears, Roebuck and Co. mail order services, and by means of the Sears, Roebuck and Co. Internet website.

In Registration No. 534,259, the chisels, files, hand drills, hammers, screwdrivers, hand wrenches, shovels, in International Class 008; in Registration No. 1,391,401, the shaping files, socket wrenches, ratchet wrenches, combination wrenches, ignition wrenches, in International Class 008; in Registration No. 1,927,755, the clothing, namely suspenders, belts, hats, gloves, in International Class 025; and in Registration No. 2,087,020, the lug wrenches and spring clamps, in International Class 008 do not travel in and are not available through channels of commerce other than Sears, Roebuck and Co. stores and Sears, Roebuck and Co. affiliate stores, Sears, Roebuck and Co. catalog and Sears, Roebuck and Co. mail order services, and the Sears, Roebuck and Co. Internet website.

In Registration No. 534,259, the chisels, files, hand drills, hammers, screwdrivers, hand wrenches, shovels, in International Class 008; in Registration No. 1,391,401, the shaping files, socket wrenches, ratchet wrenches, combination wrenches, ignition wrenches, in International Class 008; in Registration No. 1,927,755, the clothing, namely suspenders, belts, hats, gloves, in International Class 025; and in Registration No. 2,087,020, the lug wrenches and spring clamps, in International Class 008 are advertised and promoted exclusively in advertisements and promotional materials displaying the trademark SEARS or SEARS ROEBUCK AND CO. in close proximity to the

CRAFTSMAN trademark.

The undersigned's check in the amount of \$1,200.00 is enclosed to cover the fee required for the four classes in which restriction is sought.

Dated: 01/21/03

Respectfully submitted,



ROBERT LOUIS FINKEL
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Attorney for Petitioner

DECLARATION OF MAILING

I hereby declare that on the date set forth below this Petition for Restriction and any enclosures referred to therein are being deposited with the United States Postal Service as first class mail in an envelope addressed to:

Box TTAB-Fee
Commissioner for Trademarks
2900 Crystal Drive
Arlington, VA 22202-3513

Dated: 1-21-03


CAROLYN KASSIAN



TTAB

01-27-2003

U.S. Patent & TMO/c/TM Mail Rcpt Dt. #61 , UNITED STATES PATENT AND TRADEMARK OFFICE
BEFORE THE TRADEMARK TRIAL AND APPEAL BOARD

In re Application of

CRESCENT NETWORKS

Serial No. 76/415059

Filed June 6, 2002

For CRESCENT NETWORKS

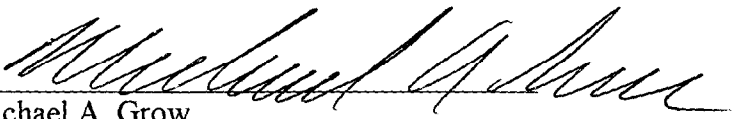
REQUEST FOR EXTENSION OF TIME
TO OPPOSE

Petitioner Cooper Industries, Inc. hereby requests that the time within which it may oppose registration of the above referenced mark which was published in the Official Gazette of December 24, 2002, be extended for a period of ninety (90) days, to and including April 23, 2003.

Petitioner believes that it may be damaged by the registration of said mark. The additional time is needed to enable Petitioner to make an investigation into the matter, to consult with counsel and to make a determination of the facts.

This request is being submitted in triplicate.

COOPER INDUSTRIES, INC.

By 
Michael A. Grow
Arent Fox Kintner Plotkin & Kahn, PLLC
1050 Connecticut Avenue, NW
Washington, DC 20036
(202) 857-6000

Attorney for Petitioner

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CERTIFICATE OF MAILING

It is hereby certified that the attached Request for Extension of Time Within Which to Oppose (re S/N 76/416059) is being deposited with the U.S. Postal Service, addressed to the Hon. Assistant Commissioner of Trademarks, 2900 Crystal Drive, Arlington, Virginia 22202 this 21st day of January 2003 marked first class mail, postage prepaid.

A handwritten signature in cursive script, appearing to read "Michael A. Love", is written over a horizontal line.